IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

WP(C).No. 24239 of 2006(I)

PETITIONER:

M/S. PALM FIBRE (INDIA) PVT. LTD.,
ATHIRAPALLI P.O., ALAPPUZHA, REP.
BY ITS CHAIRMAN MATHEW JOSEPH.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS:

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1. MANNANCHERRY GRAMA PANCHAYAT,
(SPECIAL GRADE), MANNANCHERRY P.O.,
ALAPPUZHA-688 538, REP. BY ITS SECRETARY.

2. THE SECRETARY,
MANNANCHERRY GRAMA PANCHAYAT, (SPECIAL GRADE),
MANNANCHERRY P.O., ALAPPUZHA-688 538.

3. MR. HANEEF, AGED 46 YEARS,
S/O. MUHAMMED KUNHI, AMBALKANDATHIL,
MANNANCHERRY GRAMA PANCHAYAT, WARD NO.4,
NORTH ARYAD P.O.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

I.A. No.3353/2007 W.P.(C)NO. 24239 of 2006

Dated this 5th day of March, 2007

O R D E R

This is an application for appointment of an Advocate Commissioner for determining the approximate age of building bearing No.170/A of the Mannancherry Grama Panchayat. The case of the petitioner is that the building was in existence since 1995 while the Panchayat contends that the building was constructed only after the survey referred to in Ext.P9 was conducted. Though the applications opposed by Counsel for the respondents, In the light of the controversy, which has now arisen as to the age of the building, I agree with the petitioner that report by an Advocate Commissioner on the basis of a local inspection may help this court in determining the matter. Accordingly, Advocate Sri.N.J.Johnson of this court is appointed as Advocate Commissioner. The Commissioner will give notice to the party through their Advocates appearing in this court before conducting the inspection. The Commissioner will permit both

sides to submit work memos and report on the aspects sought for in the work memos. The remuneration of the Advocate Commissioner is fixed as Rs.10,000/-. The petitioner shall bear the expenses for Commissioner's travel or make arrangements for the same. Advocate Commissioner will file report before this court within two weeks of conducting the inspection.

The interim order will continue for three weeks. Post on 28.3.2007.

PIUS C.KURIAKOSE
Judge

dpk

PIUS C.KURIAKOSE, J.

W.P.(C)NO.24239 of 2006

Dated this 11th day of April, 2007

JUDGMENT

Advocate Commissioner's report is quite convincing. The Commissioner, inter alia has reported that the Panchayat was not inclined to produce the property tax assessment register, which would have shown details as to when actually the building was constructed. On a rough estimate, the Commissioner has assessed the age of the building as 8 years.

2. Considering the Commissioner's report and the circumstance that the Panchayat was not prepared to produce the property tax assessment register, I am of the view that Ext.P13 is liable to be quashed. I quash Ext.P13 and direct the Panchayt to take a fresh decision with notice to the petitioner as well as the 3rd respondent. The Panchayat will rely on the Commissioner's report while taking fresh decision as directed above. Decision, as directed above, will be taken at the

earliest, at any rate, within one month of receiving a copy of this judgment and copy of the commissioner report. Status quo obtaining as on today will be maintained till such time as fresh decision is taken as directed above.

PIUS C.KURIAKOSE
Judge

dpk